

3. History and Background

A chronology of relevant events regarding jail facilities can be found in Appendix A of this EIR. This appendix was prepared by utilizing GSA acquisition and property management files, consultant study reports, interviews with County staff, the Sheriff's Department, County Counsel's office, Board of Supervisors' Resolutions and Clerk of the Board historical files. The reader is referred to this chronology for a summary of major events.

The County of Orange has three existing County jail facilities. These include the Santa Ana Central Jail Complex consisting of the Central Men's Jail, Central Women's Jail and the Intake and Release Center, the Theo Lacy Branch Jail in Orange and the Musick Jail in Irvine. In the spring of 1978, U.S. District Court Judge William P. Gray ordered Orange County to improve overcrowded conditions in the Central Men's Jail. Thereafter, exhaustive efforts were undertaken to either expand the Main Jail and/or existing branch facilities and to identify appropriate sites for new facilities. The following is a brief description (in chronological order) of the major relevant planning documents prepared in an effort to improve overcrowded conditions in the Orange County jail facilities.

Major Corrections Needs Assessment Study and James A. Musick Master Plan ("Omni Report," 1981)

In 1981, the Orange County Board of Supervisors directed that a "Major Corrections Needs Assessment Study" and "James A. Musick Master Plan" be prepared to study long-range correctional and detention facility needs for long-term requirements. The Major Corrections Needs Assessment Study included an extensive evaluation of the following areas:

1. History and current problems
2. Goal and objectives and purpose of adult detention facilities
3. Jail population profiles
4. Alternative capacity projection methodologies standards and legal issues to alternatives to incarceration
5. Currently available alternatives to incarceration
6. Constructive changes or additions to the currently available alternatives to incarceration
7. Adjusted capacity projections
8. Regionalization

9. Facility and site evaluation
10. Existing programs and services
11. Correctional programs and services model
12. Alternative detention system configuration
13. Intake and Release Center architectural program

On October 28, 1981 the Orange County Board of Supervisors approved the Major Corrections Needs Assessment Study (and the "Musick Master Plan"). The County then submitted the study to the Board of Corrections as part of the County's application for jail construction funds.

Major Corrections Needs Assessment Study Update ("Omni Report," 1983)

The Orange County Major Corrections Needs Assessment Study Update was prepared to update previously identified existing and projected future needs in the Orange County adult detention system and confirming and updating the proposed solutions to meet those needs. The updated study recommended that the following projects, if implemented, would meet the needs of the Orange County adult detention system through the year 2000:

1. A new 384-bed Intake and Release Center to be constructed on the Santa Ana Main Jail site.
2. Remodeling of the Main Jail to utilize the space currently occupied by the Intake and Release Center and improve functionality of medical areas.
3. Expansion of the Musick Jail facility.
4. Construction of a new pre-trial/sentenced facility, a new sentenced facility and a new minimum security facility, all on unspecified sites.

The study (page 2.7) indicated that inmate capacity in the Santa Ana Main Jail had been deficient since before 1970. The deficiency at the time of the updated study (1983) was 481 beds (in male inmate rated bed capacity - see explanation in Section 4.1.2.b). Additionally, the study (page 2.16) identified that the projected average capacity requirement systemwide will exceed the existing rated capacity (1983 - total rated bed systemwide = 2162) by approximately 41% in 1985, 108% in 1990, and 284% in the year 2000. Between 1970 and 1983, the total average daily population for the entire adult detention system increased from 1,103 to 2,511 (127%) and the total Board of Corrections rated capacity increased from 1,433 to 2,134 (49%). In

1983, the average daily inmate population (systemwide) was in excess of 2,500 inmates. The updated study emphasized that the system was critically overcrowded.

The 1983 study (page ii) identified that the primary contributing factor to the jail population growth has been the significant increase in the total average length of stay in the jails from 8.5 days in 1980 to 11.7 days in 1982.

Major Corrections Needs Assessment Study Update ("Omni Report," 1987)

Subsequent to the adoption of the 1983 Major Corrections Needs Assessment Update and master plan by the Orange County Board of Supervisors, several significant facility planning actions were initiated or completed at the time of the 1987 update of the Major Corrections Needs Assessment Study. The facility planning actions included:

1. The new 384-bed IRC located at the existing Central Jail Complex was completed and occupied.
2. Planning was initiated in December 1986 for a 1,580-bed Near Term Jail. This facility was to be located at the Katella Avenue/Douglass site.
3. Planning was initiated for the Theo Lacy Branch Jail Expansion project. This project was to provide 704 additional beds (from 622 rated beds to 1,326).
4. In July 1987, the Orange County Board of Supervisors designated Gypsum Canyon as the site of an additional future adult detention facility required through the year 2006. Additionally, the Board directed that a plan be developed for the relocation of the Musick Jail uses to the Gypsum Canyon site.

The 1987 Update recommended that the following proposed projects be implemented to meet the needs of the Orange County Adult detention system:

1. Completion of the renovation of the Central Jail support areas.
2. Expansion of Theo Lacy from 622 to 1,326 rated capacity.
3. Renovate existing Women's Central Jail to reduce large multi-occupancy inmate cells to 8- and 4- capacity inmate cells.
4. Renovate existing Men's Central Jail to reduce large multi-occupancy inmate cells to 8-capacity inmate cells.
5. Construct new 1,580-bed Near Term Jail to house male and female pretrial and medium/maximum sentenced inmates.

6. Construct the maximum security jail and support facilities at Gypsum Canyon (to accommodate 2,016 rated beds).

The 1987 Update identified capacity requirements for all facilities through the year 2006. The 1987 Update recommended that commitment of capital expenditures be limited to provision of 1995 requirements (Phase I). Implementation of the subsequent phase (Phase II) should await confirmation of projected trends. Phase I (to be completed by 1995) included development of the Near Term Jail facility to be located at the Katella-Douglass site. This Near Term Jail Facility was planned to accommodate 1,388 males and 192 females for a total 1,580 rated beds.

The 1987 Major Corrections Needs Assessment Study and Master Plan was approved by the Orange County Board of Supervisors in February 1989.

Management Solutions of the 1992 Short-Term Jail Solutions Report

The management solutions identified as alternatives to incarceration in the January 1992 Short-Term Jail Solutions Report were underway shortly after the adoption of the report, in spite of difficulty in locating work furlough facilities due to community objections. Until the County bankruptcy in December, 1994, the County had the following non-incarceration programs:

- Community Work Program - A program administered by the Orange County Sheriff's Department for persons with good behavior records and less than 45 days left on their sentences. The program currently averages between 300 to 400 who must be non-violent misdemeanants only. This program is still in effect.
- Community Work Furlough Program - A program formerly administered by the Probation Department and located in two apartment complexes totalling 110 units in Anaheim and Buena Park. It involved non-violent misdemeanants only. Participants were accepted directly into this program, so there was no actual relief to the demand for jail beds. The program was discontinued after the bankruptcy for financial reasons.
- Electronic Confinement - A program which would be administered by the Probation Department for non-violent misdemeanants, but has never been completely funded. To the extent it was funded, it was discontinued after the bankruptcy. This program has been reestablished using private contractors.

Approximately 1,154 persons of the non-violent misdemeanor classification were postulated as eligible for these programs, if they exist, by the year 2006. Therefore, of the 10,911 jail beds forecast as needed in 2006, 1,154 beds would not be necessary if these programs were operational.

It must be noted that these programs only make available beds at the minimum security category, whereas the pressure on the system is for high security beds. It must also be remembered that the County's demand for jail beds does not end in 2006, which was selected by the Omni study as an intermediate horizon year. With 4,500 rated beds in the system, including the next Theo Lacy expansion approved by the Board (actually, only 3,821 rated beds now exist), and even after deduction for the non-incarceration programs, over 5,257 beds would be necessary. These figures do not count medical beds, which comprise approximately 7% of all new beds. Table 2 summarizes these data, without the non-incarceration adjustment.

Table 2
Beds That Need to be Built at Musick to Meet Year 2006 Omni Projections

1. Shortfall based on current Board of Corrections rated capacity		
a.	Projected requirement (peak) (based on Year 2006 Omni unadjusted projections)	10,911
b.	Current available rated capacity, including the Theo Lacy expansion	4,500
c.	Shortfall (new beds required)	6,411
2. Actual number of beds that need to be built at Musick		
a.	"New" beds required	6,411
b.	Existing rated Musick beds that would be rebuilt	713
c.	Medical beds (7% of 6,411 new beds)	448
		7,572

3.1 Project Goals and Objectives

CEQA Guidelines §15126(d) requires that the EIR describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain the basic project objectives. The Guidelines further state that the discussion of alternatives shall focus on alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance, even if these alternatives would impede to some degree the attainment of project objectives, or would be more costly. Because the CEQA Guidelines require that an EIR contain a statement of objectives sought by the project in order to establish a basis for the examination of alternatives, the following list of project objectives is provided:

1. Provide for adequate incarceration facilities in the County of Orange for pre-trial and sentenced inmates. "Adequacy" is defined as meeting State Board of Corrections guidelines, the federal court order, not violating the constitutional rights of inmates, and carrying out the full sentences imposed by the judicial system. A system of incarceration facilities involving "early release" and "cite and release" does not satisfy this objective. These projections cannot be relied upon over the long term for public safety and administration of justice reasons.
2. Provide for jail expansion to be attained in full by the year 2006.
3. As no new revenue sources currently exist, the attainment of adequate facilities must be made from County budget and financing opportunities, and therefore must fit within the County budget revenues and financing opportunities.
4. The operation of the County incarceration facilities must not have a negative impact on public safety or be unsafe for staff or inmates.
5. The expansion and operation of the jail system must not present any appreciable risk to the public from incarcerated inmates.

3.2 Statement of Need

The Orange County jail system is now the sixth largest such system in the United States. In 1968, the County had 1,400 jail beds and a population of 1.3 million citizens. Of the incarcerated inmates, 30% of the population involved felonies and 70% involved misdemeanors. In 1996, the County has over 5,200 inmates in the jail system, and a population of over 2.5 million residents. Now, 70% of the inmates are incarcerated for felonies, and 30% for misdemeanors. Not only does this show the overall increase in the jail population in raw numbers, but also the significant change in the character of the crime for which the inmate is incarcerated. The present capacity of the jail system is inadequate to completely meet the need.

Further, in Orange County, pre-trial inmates comprise 40% of the jail population. This percentage is growing rapidly, as the "Three Strikes and You're Out" legislation has all but eliminated plea bargaining and consequent avoidance of a lengthy trial. In the last three years, the average stay for a pre-trial inmate has increased from 55 days to over 100 days.⁹

⁹Personal communication with Jerry Krans, Assistant Sheriff, Corrections, June 26, 1996.

As noted earlier, the jail facilities in the County of Orange are severely overcrowded (136% of capacity) at the present time. To ease the threat of overcrowding which would exceed the present federal court order issued in *Stewart v. Gates*, many inmates are released without having served their complete sentences. Based on past experience, the current projection is that approximately 40,000 inmates will be released early this year to make room for incoming arrestees and newly sentenced inmates.¹⁰ State law (California *Penal Code*) provides that in cases of overcrowding the Sheriff may apply to the courts for authorization to accelerate an inmate's release up to 10% off a sentence. In order to not violate the federal court order, the Sheriff has been forced to exceed these state provisions by releasing inmates up to 20% and 30% early.

To appreciate the magnitude of the problem, consider the following. In just the first six months of 1996, from January 1, 1996 through June 30, 1996, 12,027 inmates were released early from the Orange County Jail System. Of the 12,027 inmates released early, 2,030 were released with 20% of their sentences still remaining. In one case, one inmate was released 174 days prior to the end of his sentence. The total number of days inmates were released early was 105,939. That is equivalent of 290+ years; and that is only for a six-month time period. A sampling of the types of persons who were released early during the first six months of 1996 and the seriousness of their crimes is shown in Table 3.

Table 3
Examples of Early Jail Releases
First Six Months of 1996

Total Releases	Type of Offense	Maximum # of Days Released Early	Total # of Days Released Early
1	Evade police officer, resulting in great bodily injury or death	27	27
3	Involuntary manslaughter	50	79
8	Arson	76	239
1	Attempted murder	38	38
21	Kidnapping	59	435
3	Car jacking	48	85
96	Robbery	75	3,034
221	Assault with deadly weapon	89	4,062
30	Rape/sexual battery	54	483
618	Spousal abuse	92	5,477

¹⁰Personal communication with Jerry Krans, Assistant Sheriff, Corrections; August 16, 1996.

Total Releases	Type of Offense	Maximum # of Days Released Early	Total # of Days Released Early
59	Cruelty/injury to child	57	600
34	Child molestation	74	1,049
728	Burglary	105	10,147
61	Extortion/forgery/embezzlement	74	494
511	Grand theft	75	5,988
2,031	Transportation/sales of narcotics	81	28,129
41	Felonious assault	35	375
229	Assault and battery	102	1,759
1,257	Driving under the influence	123	7,051
96	Prostitution	21	330
156	Illegal firearms/carrying a concealed weapon	76	1,511
6,205	TOTALS		71,392

During 1995, 882 criminals (an average of 2.4 per day) who had been released early from the jail were arrested on new charges during the time they would have been in jail. This figure only represents those which were caught committing another crime. These crimes would not have occurred if they were still in jail.

In 1992 and 1993, several Orange County cities constructed additional detention facilities. These cities save a significant amount of money by not booking these criminals into the County's jail system and avoiding booking fees.

When a criminal is arrested by a city, the criminal is often booked into its jail. This same criminal, if booked into the Orange County Jail, would most likely have to be cited and released on a promise to appear in court at a later date. After the person is arraigned in court, these pretrial inmates are immediately remanded to the custody of the Sheriff. The Sheriff by law has to accept these remandees, many of whom are misdemeanor inmates, through the entire court process. Today, about 16% of all bookings come from the cities by way of remanding orders. It is projected for 1996 that the Sheriff's Department will have to accept over 11,000 remanding orders. Remand orders are particularly significant, because pursuant to state law a pre-trial inmate remanded to the jail by the court cannot be discharged by the Sheriff until lawfully ordered to be released, regardless of whether

the Sheriff would otherwise discharge such inmate.¹¹ As can be seen, the numbers of inmates being added to the system increase the need for additional beds.

Recent violent incidents in the jails indicate the critical need for additional housing units capable of providing adequate segregation. Many of the existing jail facilities were designed in the early 1960s for a far different type of inmate. These jails contain many large open dormitories where observation is difficult and large number of inmates are forced to live in overcrowded conditions. As more and more minimum security inmates are cited and released, the percentage of the jail population that are higher security medium and maximum security inmates necessarily will increase. The most recent study (1993) of assaults at the Central Jail Complex showed a 68% increase in reported assaults, predominantly in prisoner to prisoner altercations. There have also been increases in assaults on staff. The lack of adequate housing to allow the Sheriff to segregate these high security inmates from each other is critical. Until additional maximum beds are brought on line it is difficult to provide a safe environment for staff and inmates, and the number of violent assaults between inmates and assaults on staff will continue to increase.

Table 4 and Table 5 show the future capacity needs, projected shortfalls and current rated capacities for the Orange County jail system.

The 1992 Short-Term Jail Solutions Report suggested a number of alternatives to incarceration as a means to relieve the overcrowding. These included community work program expansion, work furlough/electronic home confinements, video arraignments, and weekend arraignments/alternative court schedules. These were discussed earlier in this text. The noteworthy fact with respect to these management options is that they can only deal with non-violent misdemeanants, who comprise less than 11% of the system, even at the year 2006. These options are considered in Section 7, "Project Alternatives."

Table 4
Orange County Future Jail Capacity Needs

	1995 Unadjusted	1996 Unadjusted	1997 Unadjusted	1998 Unadjusted
Current Available Rated Capacity	3821	3821	3821	3821
Projected Capacity Requirements (Peak)	7436	7797	8098	8430
Rated Capacity Shortfall	3615	3976	4277	4609

¹¹California Penal Code §4004.

	1999 Unadjusted	2000 Unadjusted	2001 Unadjusted	2002 Unadjusted
Current Available Rated Capacity	3821	3821	3821	3821
Projected Capacity Requirements (Peak)	8762	9094	9396	9699
Rated Capacity Shortfall	4941	5273	5575	5878
	2003 Unadjusted	2004 Unadjusted	2005 Unadjusted	2006 Unadjusted
Current Available Rated Capacity	3821	3821	3821	3821
Projected Capacity Requirements (Peak)	10,002	10,305	10,608	10,911
Rated Capacity Shortfall	6181	6484	6787	7090

Table 5
Existing Detention System Rated Capacities

Central Men's Jail	1219
Central Women's Jail	275
Intake and Release Center	384
James A. Musick Facility	713
Theo Lacy Branch Jail	1230
Total	3821

Notwithstanding the controversy that any expansion or siting of a new jail causes, public sentiment favors an incarceration-oriented criminal justice system. Several propositions and other state and federal laws have emphasized the need to "lock up" offenders, the most recent being the "Three Strikes and You're Out" legislation. At the time of this writing, approximately 175 inmates in the jail system would qualify for permanent incarceration under the "Three Strikes and You're Out" legislation. An additional 134 inmates are awaiting trial under the state's "Two Strikes" law, and the numbers are growing. These inmates are delayed in County facilities during trial and, if convicted, while state and federal room is sought for them. At the present time, inmates held in the County jail system being transferred to the state system often wait as much as three to four weeks to be transferred. Since these inmates cannot be released, and since they are added to the system on nearly a daily basis, this forces the Sheriff to release inmates early, prior to the expiration of their sentence in order to free up beds for new, incoming inmates.

The state immigration law also adds to the pressure on jail facilities. At the present time, the Orange County jail system holds approximately 300+ inmates on the average who are on "immigration holds." These inmates are persons who have committed crimes in the Orange County area and have been discovered to be illegal aliens. Federal immigration law provides that these persons travel through the local justice system first and are then transferred after completing their sentence to the federal government for deportation. On the average, this means that another 200 or more beds are occupied in the Orange County jail system in a manner that does not allow release on bail or early release.

Due to the pressures of the jail system, expansion of Musick Jail Facility is necessary due to the need for additional housing units. The design of the proposed buildings provides added security in that inmates can recreate, eat and participate in most of the inmate programs within the buildings. Because the jail system is subject to racial strife and gang competition, it is necessary to have adequate housing units in which inmates can be properly segregated. This is the only way in which the safety of the Sheriff's staff and the safety of other inmates can be assured. Therefore, an inmate being kept in a maximum security facility may or may not be a maximum security inmate.

With respect to the proposed project, Table 6 is instructive.

Table 6
Musick Jail
5- and 10-Mile Booking Statistics

	1995 Bookings	% of Total (71,814)
Cities and Jurisdictions within 5 Miles of Musick		
1. Irvine	1,310	
2. Laguna Hills	609	
3. Lake Forest	833	
4. Mission Viejo	842	
5. Orange County Sheriff (unincorporated)	1,103	
6. University of California, Irvine	195	
7. Countywide agencies - miscellaneous	1,732	
	6,629	9.23%

	1995 Bookings	% of Total (71,814)
Cities and Jurisdictions within 10 Miles of Musick, or within South Court jurisdiction		
1. Irvine	1,310	
2. Laguna Hills	609	
3. Lake Forest	833	
4. Mission Viejo	842	
5. Orange County Sheriff (unincorporated)	2,565	
6. University of California, Irvine	195	
7. Laguna Beach	464	
8. Laguna Niguel	455	
11. San Juan Capistrano	585	
12. Tustin	1,808	
13. San Clemente	1,201	
14. Dana Point	774	
15. Countywide agencies - miscellaneous	5,772	
	17,423	24.26%

This data strongly suggests that the Musick Jail expansion is situated appropriately for serving the population of inmates from which the public desires protection. The figure of 17,399 bookings in the 10-mile radius and within South Court jurisdiction represents approximately 25% of all bookings countywide. Since approximately 30% of the County's population lives in this south County area, and since the bookings are approximately 25%, there is no significant difference in the percentage of bookings per capita between south County and the remainder of the County.

A review of arrests for crimes in the cities of Lake Forest, Irvine, Dana Point, and San Clemente in 1995 is shown in Table 6. This data shows that for these cities alone, 1,746 felonies were committed, including 6 homicides, 4 rapes, 48 robberies, and 350 assaults. Therefore, there is demand for jail facilities in the south County area as a result of its own crime and court activities.

The role of the courts with respect to the siting of jail facilities cannot be overlooked. Although greater elaboration is provided in the "Alternatives" section of this EIR in response to an alternative, a brief summary provides context here.

A person taken into custody for either a misdemeanor or a felony has all pre-trial motions (e.g., preliminary hearing, deposition orders, evidentiary hearings, etc.) held in the municipal court of the jurisdiction in which the person is *arrested*. Even the trial of the misdemeanant is held in the municipal court of the jurisdiction in which the person is arrested. Only the trial of an inmate charged with a felony is held in Superior Court in Santa Ana. When inmates are sentenced, one-third such inmates return to the court for various hearings and motions while sentenced, and these motions are held in the court jurisdiction in which the person was arrested.

There are five municipal courts in Orange County addressing broad geographic areas: North, West, Central, Harbor and South. Only the Central Municipal Court is in Santa Ana. North Court is in Fullerton, West Court in Westminster, Harbor Court in Newport Beach, and South Court in Laguna Niguel and Laguna Hills (this is only a traffic court).

Every inmate has the constitutional right to attend his or her legal proceedings, whether pre-trial, trial or sentencing. The transportation demands on the jail system are, therefore, very high. For example, of the present 5,200 inmates in the system (this figure changes from day to day), 40% — or roughly 2,382 — are subject to being transported to their various hearings or trials. Table 6 justifies consideration of an all-classification jail facility in southern Orange County. For example, in 1995, 6,624 bookings occurred within 5 miles of the Musick Jail, and 17,399 bookings occurred within 10 miles of the Musick Jail and within South Court jurisdiction. With the exception of those bookings in Tustin, Orange, Newport Beach and UCI, most of the proceedings for these bookings would take place in South Orange County Municipal Court. Therefore, while certainly not the sole consideration, proximity to the court in which most of the proceedings occur (even in felony cases, approximately 70% of the appearances are for pre-trial proceedings) is a legitimate consideration for siting a facility, even if the County did not already own the Musick Jail property. Although the South Court facility is currently in Laguna Niguel, it has been proposed for relocation. A final site has not been selected, but the sites which have been under consideration in the past are all closer to the Musick Jail than the Laguna Niguel court facility (i.e., one South Court location which has been considered is in Rancho Santa Margarita).

Neither the Board of Supervisors nor the Sheriff has any authority over the operation of the courts, pursuant to state law. Although the County Board of Supervisors funds the local court system, it cannot cause the court system to behave in any particular way, or to locate at any particular place.